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No. 99-1321

In the Supreme Court of the United States

AMERICAN SOCIETY OF ASSOCIATION EXECUTIVES,
PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the so-called proxy tax imposed by 26 U.S.C. 6033(e) on lobbying expenses incurred by a tax-exempt organization as an elective alternative to disallowance of members' deductions of dues attributable to lobbying violates the First Amendment to the Constitution.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-10a) is reported at 195 F.3d 47. The opinion of the district court (Pet. App. 11a-29a) is reported at 23 F. Supp. 2d 64.

JURISDICTION

The judgment of the court of appeals was entered on November 9, 1999. The petition for a writ of certiorari was filed on February 4, 2000. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

1. Petitioner is a trade association composed of approximately 22,300 executive and staff members. It is

exempt from federal income tax as a "[b]usiness league[]" under Section 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(6). Petitioner engages in lobbying on behalf of its members. Pet. App. 11a.

Prior to amendment by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13222, 107 Stat. 477 (the 1993 Act), Section 162(e) of the Internal Revenue Code allowed the deduction of direct lobbying expenses. 26 U.S.C. 162(e) (1988). In the 1993 Act, Congress amended Section 162(e) to prohibit the deduction of lobbying expenses. Congress adopted a "flow-through" provision to implement that prohibition with respect to lobbying conducted for the benefit of members of tax-exempt organizations. Under the "flow-through" provision, members of tax-exempt organizations are prohibited from deducting (on their own returns) the portion of the dues they paid to tax-exempt organizations that are employed in the lobbying conducted by those organizations. 26 U.S.C. 162(e), 6033(e)(1)(A). The 1993 Act, however, gives tax-exempt organizations an alternative to the "flow-through" method: the tax-exempt organization may instead elect to pay a so-called "proxy tax" of 35 percent of the amount of lobbying expenses incurred. If the tax-exempt organization pays the "proxy tax," individual members are then permitted to deduct the full amount of dues paid. 26 U.S.C. 6033(e).

When a tax-exempt organization chooses the "flow-through" alternative, it is required to provide notices to members, at the time of assessment or payment of dues, that contain a "reasonable estimate" of the portion of the dues allocable to lobbying expenses that its members are not permitted to deduct. 26 U.S.C. 162(e), 6033(e)(1)(A)(ii). Actual lobbying expenditures in excess of the amount estimated by the organization would

remain subject to the proxy tax. The Secretary may waive payment of the proxy tax in that situation, however, if the organization agrees to correct its mistaken estimate by carrying over and including the excess in estimated lobbying expenses in the following year. 26 U.S.C. 6033(e)(2).

To ensure that members are placed in the same economic position they would have occupied if they had lobbied directly, rather than through a tax-exempt organization, lobbying expenses are treated as having been paid from dues to the extent thereof. 26 U.S.C. 6033(e)(1)(C)(i). Any lobbying expenses in excess of current dues are carried over to the following year and treated as paid in that year. 26 U.S.C. 6033(e)(1)(C)(ii).

2. Petitioner brought an action to enjoin enforcement of Sections 162(e) and 6033(e). In holding that petitioner's suit was barred by the Anti-Injunction Act (26 U.S.C. 7421), the district court concluded that Sections 162(e) and 6033(e) did not violate petitioner's First Amendment rights, and that petitioner had the adequate legal remedies of challenging the tax either *before* payment, by suit in the Tax Court, or after payment, in a refund suit brought in a district court or in the Court of Federal Claims. *American Soc'y of Ass'n Executives* v. *Bentsen*, 848 F. Supp. 245, 249-250 (D.D.C. 1994). Petitioner did not appeal from the denial of its request for injunctive relief.

Petitioner thereafter chose not to provide notice to its members of the portion of their dues that was attributable to lobbying expenses. Instead, petitioner elected to pay the "proxy" tax in the amount of $56,900. Pet. App. 3a-4a. After filing a timely administrative claim for refund, which was denied, petitioner then brought this refund suit in federal district court, contending that Sections 162(e) and 6033(e) impose uncon-

stitutional penalties on the exercise of its First Amendment rights.

3. The district court upheld the validity of the challenged statutes and denied the refund claim. Pet. App. 11a-29a. The court noted that in *Regan* v. *Taxation With Representation*, 461 U.S. 540 (1983), and *Cammarano* v. *United States*, 358 U.S. 498 (1959), this Court applied a rational basis standard in reviewing the constitutionality of tax statutes that withdraw subsidies previously provided through the allowance of tax deductions (Pet. App. 20a-21a). The court concluded that Sections 162(e) and 6033(e) did not impose "penalties" on associations that engage in lobbying, as petitioner urged, but instead eliminated the subsidy that previously had been provided to associations and other taxpayers through a deduction for lobbying expenses. Pet. App. 22a-25a. The court stated that (*id.* at 23a):

> Upon close examination of this case it becomes obvious that this is less an instance of penalizing the exercise of a fundamental right than a case of Congress deciding not to subsidize the exercise of that right. The United States is not obligated to subsidize any person's lobbying.
>
> The Act is not a restriction on the content of speech. The Act does not discriminate against plaintiffs if they seek to influence legislation; the Act simply advances Congress' purpose that such speech not be paid for with pre-tax dollars. Neither does the Act single out particular ideas.

The court explained further that, without the provisions governing the allocation, estimation, and carryover of lobbying expenses, "taxpayers could evade the Act's withdrawal of the business deduction for lobbying

expenses by paying membership dues to § 501(c)(6) tax-exempt associations that would lobby on their behalf." Pet. App. 24a. The court concluded that the challenged provisions are rationally related to the permissible purpose of eliminating the preexisting tax subsidy for lobbying. *Ibid.*[1]

4. The court of appeals affirmed (Pet. App. 1a-10a). The court concluded that petitioner's challenge to the statutory scheme is foreclosed by the decision of this Court in *Taxation With Representation.* In that case, an organization challenged statutory provisions under which charitable organizations were denied an exemption from tax under Section 501(c)(3) of the Code, and contributions to the organization were therefore not deductible, if the organization engaged in substantial lobbying. In rejecting the contention of the organization that Congress could not condition tax-exempt status and the deductibility of charitable contributions on whether the organization engaged in lobbying, this Court concluded that Congress was not required to subsidize lobbying expenses by allowing a tax deduction therefor. 461 U.S. at 544. The Court noted in that case that the organization could avoid loss of its exemption from tax (and loss of the opportunity to receive charitable contributions for non-lobbying activities on a tax-deductible basis) by dividing its organization into two entities—a charitable organization "for non lobbying activities," which would be exempt from tax and could receive contributions on a tax-deductible basis, and a

[1] The district court also rejected contentions by petitioner that the statutory scheme violates its rights under the equal protection component of the Fifth Amendment (Pet. App. 25a-26a), that petitioner was entitled to advance a "facial" challenge to the statutory scheme (*id.* at 26a-28a), and a claim by petitioner for injunctive relief (*id.* at 28a).

separate organization formed under Section 501(c)(4) "for lobbying," which would also be exempt from tax but which would not be eligible to receive contributions on a tax-deductible basis. 461 U.S. at 544.

Following the decision of this Court in *Taxation With Representation*, the court of appeals concluded in this case that petitioner similarly could conduct its non-lobbying activities and lobbying activities through separate organizations, each of which would qualify for exemption from tax under Section 501(c)(6) as a business league. Pet. App. 6a-9a. Under that structure, dues paid to the lobbying organization would constitute payments for lobbying, and would not be deductible, but dues paid to the non-lobbying organization would continue to be deductible. *Id.* at 6a. The court of appeals concluded that the statutory scheme thus "imposes no burden on [lobbying] by comparison with other activities" and is rationally related to the permissible legislative goal of eliminating a tax subsidy for lobbying expenses. *Id.* at 7a-8a.

The court also rejected the contention that petitioner is precluded from segregating its lobbying activities from its non-lobbying activities through dual incorporation by Treas. Reg. § 1.162-29(f). That regulation authorizes the Commissioner to recast a taxpayer's activities for federal tax purposes consistent with the intent of Sections 162(e)(1)(A) or 6033(e) if the taxpayer "structure[s] its activities with a principal purpose of achieving results that are unreasonable in light of the purposes of section 162(e)(1)(A) and section 6033(e)." Pet. App. 9a. The court noted that, under Rev. Rul. 61-177, 1961-2 C.B. 117, an organization whose activities consist of attempting to influence legislation relevant to the business interests of its members may qualify for exemption from tax as a business league, and that a

"dual-entity structure" is thus "entirely consistent with Congress's intent in enacting the 1993 Act * * * to withdraw the deduction for lobbying expenses without affirmatively burdening the right to lobby." Pet. App. 9a. The court therefore concluded that, "[s]o long as the organization does not attempt to evade § 162(e)(1)(A)"—as "by funneling resources to the lobbying wing from the non-lobbying wing"—it would not "run afoul of the regulation." Pet. App. 9a.

ARGUMENT

The decision of the court of appeals is correct and does not conflict with any decision of this Court or any other court of appeals. Further review is therefore not warranted.

1. The court of appeals correctly concluded that petitioner's challenges to this statute are foreclosed by the decision of this Court in *Taxation With Representation*. Here, as in *Taxation With Representation*, petitioner may conduct its lobbying activities through a separate, tax-exempt organization (Pet. App. 9a). See Rev. Rul. 61-177, 1961-2 C.B. 117 (a corporation whose activities consist of attempting to influence legislation to promote a common business interest of its members may qualify as a tax-exempt business league). As a separate organization whose function is to lobby on behalf of its members, dues received from members would necessarily constitute payments received to lobby on the members' behalf. Denial of a deduction for dues paid by members to obtain lobbying on their behalf (or, if the organization chooses, payment of a proxy tax instead) is rationally related to the permissible legislative purpose of denying a tax subsidy for lobbying expenses. It would not deprive the members of any independent benefit to which they would be

entitled because, under this statutory scheme, no taxpayer is entitled to deduct lobbying expenses. 26 U.S.C. 162(e).

The court of appeals correctly rejected the contention (Pet. 22-27) that Treas. Reg. § 1.162-29(f) precludes petitioner from establishing a separate tax-exempt organization that is devoted to lobbying. The regulation prohibits taxpayers from structuring their activities in order to achieve results that are "unreasonable" in light of the purpose of Sections 162(e)(1)(A) and 6033(e) to eliminate the subsidy that previously was accorded to lobbying activities through allowance of tax deductions for costs of lobbying. Conducting lobbying activities through a separate tax-exempt organization formed for that purpose is ordinarily permissible (Rev. Rul. 61-77, *supra*) and would not frustrate the purpose of Sections 162(e) and 6033(e) (Pet. App. 9a).

Petitioner similarly errs in contending (Pet. 25-27) that, under Treas. Reg. § 1.162-29(f), the separate existence of a lobbying organization would be disregarded if the organization receives income from the operation of an unrelated business or spends income from an unrelated business on lobbying. So long as the purpose of the organization is to promote common interests of its members, as is required of all organizations that seek exemption from tax as a business league,[2] arm's-length business transactions would simply be subject to the tax imposed on unrelated business income that applies

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[2] The exemption from tax for business leagues (such as petitioner) is limited to organizations that are organized and operated to promote common business interests of their members. It is not available to organizations whose purpose is to engage in a regular business for profit. Treas. Reg. § 1.501(c)(6)-1; see generally B. Bittker & L. Lokken, *Federal Taxation of Income, Estates and Gifts*, ¶ 102.3 (2d ed. 1992).

to all tax-exempt organizations that receive income from the operation of a trade or business unrelated to the organization's exempt purpose. 26 U.S.C. 511 *et seq.*

2. The decision of the court of appeals does not conflict with the decision of any other court. Nor is there any foundation for petitioner's assertion that immediate review is warranted because payment of a proxy tax and maintenance of a tax refund suit is too much of an "obstacle[]" (Pet. 11) to expect further litigation of the issue. Tax refund suits are an adequate means of contesting a proxy tax. A tax-exempt organization may also obtain review of its claims in the Tax Court, without first paying any tax. *American Soc'y of Ass'n Executives* v. *Bentsen*, 848 F. Supp. at 250. Further review is therefore not warranted.

3. a. The statutory scheme would not violate petitioner's First Amendment rights, and review by this Court would not be warranted at this time, even if it were erroneously assumed that the avenue of forming a separate tax-exempt lobbying organization were not available to petitioner. It is well established that Congress is not required to subsidize the exercise of constitutional rights—including First Amendment rights—through the allowance of tax deductions, and may withdraw such subsidies if it chooses to do so. *Regan* v. *Taxation With Representation*, 461 U.S. at 543, 545-546; *Cammarano* v. *United States*, 358 U.S. 498 (1959); see also *INDOPCO, Inc.* v. *Commissioner*, 503 U.S. 79, 84 (1992) (tax deductions are a matter of legislative grace); *Interstate Transit Lines* v. *Commissioner*, 319 U.S. 590, 593 (1943) (same). Legislatures "have especially broad latitude in creating classifications and distinctions in tax statutes." *Regan* v. *Taxation With Representation*, 461 U.S. at 547-548.

Sections 162(e) and 6033(e) were enacted, not in order to penalize speech, but to eliminate the tax deduction for lobbying costs and thereby withdraw the subsidy previously allowed for lobbying expenses (Pet. App. 9a, 23a). H.R. Rep. No. 111, 103d Cong., 1st Sess. 659 (1993); H.R. Conf. Rep. No. 213, 103d Cong., 1st Sess. 604 (1993). The denial of a deduction of a portion of dues paid to tax-exempt organizations that engage in lobbying, and the alternative of permitting tax-exempt organizations to instead pay a proxy tax, properly apply the general repeal of the deduction for lobbying expenses-to the particular context of lobbying conducted for the benefit of members through tax-exempt organizations. The provisions do not discriminate against taxpayers who seek to influence legislation, or single out particular ideas for taxation; "the Act simply advances Congress' purpose that such speech not be paid for with pre-tax dollars" (Pet. App. 23a).

Petitioner asserts that Congress may apply only "generally applicable tax laws" to lobbying expenses (Pet. 12) and that the proxy tax constitutes an impermissible "affirmative penalt[y]" (Pet. 14) on lobbying activities on the theory that it exceeds the tax that tax-exempt organizations would pay if lobbying expenses were reclassified as income and subjected to the unrelated business income tax (26 U.S.C. 511 *et seq.*). The proxy tax, however, is a purely elective alternative to disallowance of a deduction for dues paid by members; it is a substitute for the additional tax that would be owed by individual *members* from a disallowance of a deduction of dues under Section 162(e).[3]

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[3] We note, moreover, that the graduated tax rates applicable to corporations are designed to provide an advantage to small businesses. H.R. Rep. No. 1445, 95th Cong., 2d Sess. 79 (1978); see also

In any event, far from being penal, as petitioner asserts (Pet. 14), the "proxy tax" rate of 35 percent is generally beneficial. Under that tax, a tax-exempt organization that spends $100 on lobbying would incur proxy tax in the amount of $35. Because the statute does not include a "gross up" provision to account for income used to pay the proxy tax, the *effective* tax rate on funds used to pay lobbying expenses is only approximately 26 percent ($35/$135). By comparison, during 1993, the marginal tax rate of 28 percent for individuals applied to the relatively modest income level of $36,900 or more, and a marginal tax rate of 34 percent applied to income of corporations in excess of $75,000.[4] An individual member in a 28 percent tax bracket would have to earn approximately $139, and would have to pay tax of $39 ($139 X .28) in order to spend $100 on lobbying, and a corporation in the 34 percent tax bracket would have to earn $152, and pay tax of $52 ($152 X. 34) in order to spend $100 on

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H.R. Rep. No. 749, 88th Cong., 1st Sess. 116 (1963); *Mid-America Indus., Inc.* v. *United States*, 477 F.2d 1029, 1032 (8th Cir. 1973). Because Congress has no constitutional obligation to subsidize or otherwise specially favor lobbying activities, petitioner would not be entitled to the benefit of the lower rates in the corporate tax rate structure even if the proxy tax were not simply a substitute for tax that otherwise would be owed by members, and lobbying expenses were instead "reclassified * * * as taxable," and included in the organization's unrelated business income, as petitioner suggests Congress could instead have done (Pet. 12-13).

[4] Petitioner's president stated that salaries of most of its members ranged from $25,000 to $80,000 per year (C.A. App. 55). He stated further that the dues of most of its members were actually paid by the member's employer (C.A. Doc. 8, attached Dep. of Taylor 83, 86, 144, 150) and that one-half of the organizations managed by petitioner's members had annual incomes of more than $5 million (C.A. App. 56).

lobbying. Those tax liabilities exceed the $35 tax liability that a tax-exempt organization must pay to finance the same $100 of lobbying. See also J. Cummings, *Tax Policy, Social Policy, and Politics: Amending Section 162(e)*, 61 Tax Notes 595 (1993).[5]

The proxy tax, moreover, accommodates the tax-exempt organizations that have expressed a preference for that alternative so that their members may continue fully to deduct dues paid. See, *e.g.*, 12 Tax Mgmt. Weekly Report 1191 (Aug. 23, 1993) (statement of the American Institute of Certified Public Accountants in favor of a proxy tax because "there are substantial benefits for * * * [members] in not having to deal with another partially nondeductible item, and there are substantial benefits to the Internal Revenue Service in being able to handle compliance issues with one taxpayer rather than 320,000"). Indeed, petitioner has itself previously acknowledged that the proxy tax is beneficial to its members. 1993 Tax Notes Today 166-115 (Aug. 10, 1993). See also 1993 Tax Notes Today 178-49 (Aug. 26, 1993) (emphasis added) (in which petitioner states that the proxy tax would permit

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[5] The proxy tax is also not unique. An analogous tax is imposed on income of homeowners associations under Section 528(b) of the Code. In the case of homeowners associations, a flat rate of 30 percent was chosen in part because members of homeowners associations were likely to be in higher tax brackets than the association itself. H.R. Rep. No. 1278, 96th Cong., 2d Sess. 27 (1980) (imposing a tax on homeowners associations "at a flat rate of 30 percent, which may reasonably approximate the average marginal income tax rate of the members of these associations"); S. Rep. No. 1036, 96th Cong., 2d Sess. 19 (1980).

associations "to avoid the administrative burden and disclosure requirements to members").[6]

The proxy tax was not enacted to penalize speech nor does it have that effect. The proxy tax is simply an elective alternative available to tax-exempt organizations that would prefer payment of a tax at the organization level to the alternative of disallowance of deductions for portions of dues paid by their members.

b. Having chosen to pay proxy tax, neither petitioner nor its members were subjected to the provisions denying a deduction for a portion of dues paid to tax-exempt organizations that engage in lobbying. This case therefore does not properly present a challenge to those provisions. Petitioner's criticisms (Pet. 5-8, 14-17) of those provisions, in any event, are without merit.

Under an "allocation" rule, lobbying expenses are treated as having been paid out of dues or other similar amounts to the extent thereof. 26 U.S.C. 6033(e)(1)(C)(i). Petitioner asserts that it is inappropriate to treat lobbying expenses as having been funded exclusively by dues and that Congress was required to treat lobbying expenditures as having been paid proportionately from all sources of income that a tax-exempt organization receives (Pet. 5, 14). Petitioner

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[6] Other organizations similarly characterized the notification provisions of the bill as burdensome before Congress added the proxy tax as an elective alternative. See 1993 Tax Notes Today, 153-79 (July 22, 1993) (National Association of Manufacturers complained that the bill which did not contain a proxy tax "would create an enormous and unnecessary administrative burden for businesses and membership organizations"); 1993 Tax Notes Today 173-15 (Aug. 19, 1993) (U.S. Chamber of Commerce, in a letter to the Treasury Department, stated that disallowance of the deduction for lobbying expenses "will impose tremendous paperwork burdens on associations").

asserts that, absent a pro rata allocation, lobbying expenses paid from unrelated business activities would be taxed twice—once under the tax on unrelated businesses, "and a second time under these special lobby tax provisions" (Pet. 15). Petitioner asserts that the "carryover" rule suffers from similar asserted defects (Pet. 15-16).

As petitioner's president acknowledged in this case, however, it is "not possible" for petitioner to trace lobbying expenditures to any specific source of funds (C.A. Doc. 8, attached Dep. of Taylor 38, 54, 56-58, 141, 165-166). Indeed, petitioner incurred net operating losses from its unrelated business activities and any lobbying expenses it incurred were thus necessarily funded by the dues it received (C.A. Doc. 8, attached Dep. of Karl 31). Moreover, petitioner did not incur lobbying expenses in excess of its dues income, and the carryover provision of which it complains was thus never applicable to it.

In any event, when lobbying is conducted by a tax-exempt organization for the benefit of its members, it accords with economic reality to treat members as having acquired the benefit of the lobbying in return for the dues they paid. Members have no First Amendment right to have lobbying activities conducted for their benefit through a tax-exempt organization that is taxed more favorably than if those activities were conducted directly by the members themselves. If lobbying were conducted individually, no deduction would be allowed, regardless of the source of funds used by the member. Congress was not required to leave loopholes in the statutory scheme to permit members to obtain lobbying through a tax-exempt organization at a lower tax cost than if such lobbying were conducted by members directly.

Under an "estimation" provision, tax-exempt organizations are required to provide members with a "reasonable estimate" of dues allocable to lobbying expenses at the time of assessment or payment of the dues. 26 U.S.C. 162(e)(3), 6033(e)(1)(A)(ii). If an organization's estimate of lobbying expenses is too low, the organization may either pay a proxy tax on the amount of the underestimate, or request administrative relief under 26 U.S.C. 6033(e)(2)(B). That statute permits the Secretary to waive payment of the proxy tax if the organization agrees to take the amount by which lobbying expenses were underestimated into account in estimating its lobbying expenses the following year. *Ibid.* This proxy tax on underestimated lobbying expenses is a substitute for the additional tax that members would otherwise have paid as a result of disallowing deductions of dues if the original estimate had not been accurate. It may be waived if the tax-exempt organization agrees to take the amount of the excess lobbying expenses into account in its estimate of lobbying expenses for the following year. Petitioner is thus plainly wrong in stating that this application of the proxy tax is punitive in effect (Pet. 16).

There is also no merit to petitioner's contention (Pet. 20) that the Secretary's discretion to allow an organization to account for underestimates of lobbying expenses in the following year permits an impermissible discrimination based on the content of the organization's speech (Pet. 6-8, 16-17, 20). A waiver of this type does not affect liability for the tax; it only affects whether the tax will be paid by the organization (as a proxy tax) or by members the following year (through disallowance of a deduction for a portion of their dues). Moreover, the exercise of discretion by the Secretary is subject to judicial review either in a tax refund suit or in a

proceeding in the Tax Court prior to payment of the tax (26 U.S.C. 6033(e)(2)(C), 6212, 6213). Any affected organization may obtain judicial review of the Secretary's exercise of discretion without first paying any tax that would be due if a request for waiver of the proxy tax were denied. Petitioner's attempt to portray the discretion granted to the Secretary as an unfettered power to reward or punish taxpayers based on their views (Pet. 20) is wholly without substance.

Finally, petitioner's assertion that the estimation provision imposes the penalty of a "forfeit[ure]" (Pet. 7) if the organization's estimate of lobbying expenses exceeds actual lobbying expenses is also misconceived. As the legislative history demonstrates, Congress anticipated that a taxpayer would not incur any detriment if the organization's estimate of lobbying expenses exceeds actual lobbying expenses.[7] H.R. Conf. Rep. No. 213, *supra*, at 608 n.66 ("the conferees intend that the Secretary will prescribe regulations governing the treatment of organizations that incur actual lobbying expenditures below the estimated amount"). Congress thus did not intend the statutory scheme to operate in the manner petitioner urges. Nor is there any factual basis for petitioner's unsupported assertion that the IRS has administered the statute to impose "forfeit[ures]" (Pet. 7). In any event, since petitioner elected to pay proxy tax and did not provide its members with an estimate of the portion of the dues applied

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[7] Citing 139 Cong. Rec. H5948 n.18 (daily ed. Aug 4, 1993), petitioner asserts (Pet. 7 n.6) that "Congress was aware of the forfeit imposed by overestimation * * *." The page of the Congressional Record it cites, however, simply reproduces the page of the Conference Report discussed above, and, thus, it provides no support whatever for petitioner's suggestion that Congress intended any such forfeitures.

to lobbying, this case does not present any of the questions that petitioner now seeks to raise concerning the correction of lobbying expense estimates under Section 162(e).

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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